

<sup>3</sup>A carbon monoxide standard of 0.50% of exhaust flow at curb idle is applicable to all 1984 and later model year light-duty trucks sold to, or owned by, an importer for principal use at other than a designated high-altitude location. This requirement is effective for light-duty trucks sold to, or owned by an importer for principal use at a designated high-altitude location beginning with the 1988 model year.

<sup>4</sup>All 1982 OF year and later light-duty trucks sold to, or owned by, an importer for principal use at a designated high-altitude location shall meet high-altitude emission standards according to the requirements specified in 40 CFR part 86 for current model year light-duty trucks at the time of testing.

<sup>5</sup>Standards in parentheses apply to motor vehicles sold to, or owned by, an importer for principal use at a designated high-altitude location. These standards must be met at high-altitude according to the procedures specified in 40 CFR part 86 for current model year motor vehicles at the time of testing.

<sup>6</sup>The oxides of nitrogen standard of 1.2 gpm applies to light-duty trucks up to and including 3,750 pounds loaded vehicle weight and 6,000 pounds or less gross vehicle weight the 1.7 gpm standard applies to light-duty trucks greater than 3,750 pound loaded vehicle weight and 6,000 pounds or less gross vehicle weight; the 2.3 gpm standard applies to light-duty trucks 6,001 pounds gross vehicle weight and greater.

<sup>7</sup>The diesel particulate standard of 0.26 gpm applies to light-duty trucks up to and including 3,750 pounds loaded vehicle weight; the 0.45 gpm standard applies to light-duty trucks 3,751 pounds and greater loaded vehicle weight.

<sup>8</sup>The oxides of nitrogen standard of 1.2 gpm applies to light-duty trucks up to and including 3,750 pounds loaded vehicle weight; the 1.7 gpm standard applies to light-duty trucks 3,751 pounds and greater loaded vehicle weight.

<sup>9</sup>Specified in 40 CFR part 86 for the OF year of the vehicle, per 85.1515(c).

[61 FR 5842, Feb. 14, 1996, as amended at 62 FR 31232, June 6, 1997; 63 FR 964, Jan. 7, 1998; 65 FR 6847, Feb. 10, 2000; 70 FR 40430, July 13, 2005; 72 FR 8560, Apr. 27, 2007]

## Subpart Q [Reserved]

## Subpart R—Exclusion and Exemption of Motor Vehicles and Motor Vehicle Engines

AUTHORITY: Secs. 208(b)(1), 216(2), and 301, Clean Air Act (42 U.S.C. 7522, 7550, and 7061).

SOURCE: 39 FR 32611, Sept. 10, 1974, unless otherwise noted.

### § 85.1701 General applicability.

(a) The provisions of this subpart regarding exemptions are applicable to new and in-use motor vehicles and motor vehicle engines, except as follows:

(1) Beginning January 1, 2014, the exemption provisions of 40 CFR part 1068, subpart C, apply for heavy-duty motor vehicles and engines, except that the competition exemption of 40 CFR 1068.235 and the hardship exemption provisions of 40 CFR 1068.245, 1068.250, and 1068.255 do not apply for motor vehicle engines.

(2) Prior to January 1, 2014, the provisions of §§ 85.1706 through 85.1709 apply for heavy-duty motor vehicle engines.

(b) The provisions of this subpart regarding exclusion are applicable after the effective date of these regulations.

(c) References in this subpart to engine families and emission control systems shall be deemed to apply to durability groups and test groups as applicable for manufacturers certifying new light-duty vehicles, light-duty trucks, and Otto-cycle complete heavy-duty vehicles under the provisions of 40 CFR part 86, subpart S.

(d) In a given model year, manufacturers of motor vehicles and motor vehicle engines may ask us to approve the use of administrative or compliance procedures specified in 40 CFR part 1068 instead of the comparable procedures that apply for vehicles or engines certified under this part or 40 CFR part 86.

[76 FR 57374, Sept. 15, 2011]

### § 85.1702 Definitions.

(a) As used in this subpart, all terms not defined herein shall have the meaning given them in the Act:

(1) *Export exemption* means an exemption granted by statute under section 203(b)(3) of the Act for the purpose of exporting new motor vehicles or new motor vehicle engines.

(2) *National security exemption* means an exemption which may be granted under section 203(b)(1) of the Act for the purpose of national security.

(3) *Pre-certification vehicle* means an uncertified vehicle which a manufacturer employs in fleets from year to year in the ordinary course of business for product development, production method assessment, and market promotion purposes, but in a manner not involving lease or sale.

(4) *Pre-certification vehicle engine* means an uncertified heavy-duty engine owned by a manufacturer and used in a manner not involving lease or sale in a vehicle employed from year to year in the ordinary course of business for product development, production method assessment and market promotion purposes.

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(5) *Testing exemption* means an exemption which may be granted under section 203(b)(1) for the purpose of research investigations, studies, demonstrations or training, but not including national security.

[39 FR 32611, Sept. 10, 1974, as amended at 45 FR 13733, Mar. 3, 1980; 47 FR 30484, July 14, 1982]

### § 85.1703 Definition of motor vehicle.

(a) For the purpose of determining the applicability of section 216(2), a vehicle which is self-propelled and capable of transporting a person or persons or any material or any permanently or temporarily affixed apparatus shall be deemed a motor vehicle, unless any one or more of the criteria set forth below are met, in which case the vehicle shall be deemed not a motor vehicle:

(1) The vehicle cannot exceed a maximum speed of 25 miles per hour over level, paved surfaces; or

(2) The vehicle lacks features customarily associated with safe and practical street or highway use, such features including, but not being limited to, a reverse gear (except in the case of motorcycles), a differential, or safety features required by state and/or federal law; or

(3) The vehicle exhibits features which render its use on a street or highway unsafe, impractical, or highly unlikely, such features including, but not being limited to, tracked road contact means, an inordinate size, or features ordinarily associated with military combat or tactical vehicles such as armor and/or weaponry.

(b) [Reserved]

[39 FR 32611, Sept. 10, 1974, as amended at 45 FR 13733, Mar. 3, 1980; 73 FR 59178, Oct. 8, 2008; 75 FR 22977, Apr. 30, 2010]

### § 85.1704 Who may request an exemption.

(a) Any person may request a testing exemption.

(b) Any manufacturer may request a national security exemption under § 85.1708.

(c) For manufacturers, vehicles or engines for export purposes are exempt without application, subject to the provisions of § 85.1709. For eligible manufacturers, as determined by § 85.1706, vehicles or engines for pre-certification

purposes are exempt without application, subject to the provisions of § 85.1706(a).

[45 FR 13733, Mar. 3, 1980, as amended at 47 FR 30484, July 14, 1982]

### § 85.1705 Testing exemption.

(a) Any person requesting a testing exemption must demonstrate the following:

(1) That the proposed test program has a purpose which constitutes an appropriate basis for an exemption in accordance with section 203(b)(1);

(2) That the proposed test program necessitates the granting of an exemption;

(3) That the proposed test program exhibits reasonableness in scope; and

(4) That the proposed test program exhibits a degree of control consonant with the purpose of the program and the Environmental Protection Agency's (hereafter EPA) monitoring requirements. Paragraphs (b), (c), (d), and (e) of this section describe what constitutes a sufficient demonstration for each of the four above identified elements.

(b) With respect to the purpose of the proposed test program, an appropriate purpose is one which is consistent with one or more of the bases for exemption set forth under section 203(b)(1), namely, research, investigations, studies, demonstrations, or training, but not including national security. A concise statement of purpose is a required item of information.

(c) With respect to the necessity that an exemption be granted, necessity arises from an inability to achieve the stated purpose in a practicable manner without performing or causing to be performed one or more of the prohibited acts under section 203(a). In appropriate circumstances time constraints may be a sufficient basis for necessity, but the cost of certification alone, in the absence of extraordinary circumstances, is not a basis for necessity.

(d) With respect to reasonableness, a test program must exhibit a duration of reasonable length and affect a reasonable number of vehicles or engines. In this regard, required items of information include: